

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SCOTT FRANCIS ICEBERG,

Plaintiff,

v.

KING COUNTY SUPERIOR COURT, et al.,

Defendants.

Case No. C20-1595RSM

ORDER DENYING MOTION FOR
APPOINTMENT OF COUNSEL

This matter comes before the Court on the Motion to Appoint Counsel filed by Plaintiff Scott Francis Iceberg. Dkt. #20. The Court has determined that it can rule on this Motion without waiting for responsive briefing and chooses to do so given Mr. Iceberg's assertion that he "cannot respond to Defendants' Motion to Dismiss within the time allotted [sic]." *Id.* at 2.

In civil cases, the appointment of counsel to a *pro se* litigant "is a privilege and not a right." *United States ex. Rel. Gardner v. Madden*, 352 F.2d 792, 793 (9th Cir. 1965) (citation omitted). "Appointment of counsel should be allowed only in exceptional cases." *Id.* (citing *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963)). A court must consider together "both the likelihood of success on the merits and the ability of the petitioner to articulate his claims *pro se* in light of the complexity of the legal issues involved." *Weygandt v. Look*, 718 F.2d 952, 954 (9th Cir. 1983). In "exceptional circumstances," a district court may appoint counsel for

1 indigent civil litigants. 28 U.S.C. § 1915(e)(1); *Rand v. Rowland*, 113 F.3d 1520, 1525 (9th
2 Cir. 1997), *overruled on other grounds*, 154 F.3d 952 (9th Cir. 1998).

3 Mr. Iceberg has been able to sufficiently articulate his claims in this and several other
4 cases he has recently filed. The Court finds that his claims in this case have a low likelihood of
5 success based on the existing record. He has failed to set forth exceptional circumstances. If
6 anything, his Motion demonstrates a need for additional time to respond to the pending Motion
7 to Dismiss. Given all of the above, the Court will deny this Motion and *sua sponte* re-note the
8 pending Motion to Dismiss to allow Mr. Iceberg one additional week to prepare a response
9 brief.
10

11 Having considered Plaintiff's Motion and the remainder of the record, the Court hereby
12
13 FINDS and ORDERS:

- 14 1) The Motion to Appoint Counsel filed by Plaintiff Scott Francis Iceberg, Dkt. #20, is
15 DENIED.
16
17 2) The Court directs the Clerk to RE-NOTE the pending Motion to Dismiss, Dkt. #18,
18 for consideration on January 29, 2021. Any responsive briefing from Mr. Iceberg is
19 due no later than January 25, 2021. *See* LCR 7(d).
20

21 DATED this 30th day of December, 2020.
22

23
24 

25 RICARDO S. MARTINEZ
26 CHIEF UNITED STATES DISTRICT JUDGE
27
28